

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:05cr274**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
ALVARO ALBERTO CHERNEZ VITERI,)	
)	
Defendant.)	
)	

THIS CAUSE coming on to be heard before the undersigned upon a motion filed by the government entitled, "Motion to Reconsider Release on Bond Because of Filed Immigration Detainer".

The court having considered the government's motion without hearing further from either the government or the defendant, has determined that after the oral entry of the order entered by the undersigned on January 10, 2006 setting an appearance bond and further setting conditions of release, the government immediately gave notice of appeal to the District Court. The undersigned has further considered that the document attached to the government's motion was not presented as evidence at the detention hearing nor was the undersigned advised of the existence of the document. It is the opinion of the undersigned that the issues that the government wishes to present by the motion to reconsider should be more appropriately heard by the District Court based upon the government's appeal. At that hearing the District Court can then determine whether to allow such document into evidence.

IT IS THEREFORE ORDERED that the Motion to Reconsider Release on Bond is hereby **DENIED.**

Signed: January 13, 2006

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

